

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICARDO BALLS-RUIZ,

Plaintiff,

-against-

6:04-CV-0022
(LEK/DEP)

JO ANNE B. BARNHART, Commissioner
of Social Security,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report and Recommendation filed on January 25, 2006, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(d) of the Northern District of New York. Report-Rec. (Dkt. No. 15). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Defendant, which were filed on February 1, 2006. Objections (Dkt. No. 16).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report and Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

ORDERED, that the Report and Recommendation (Dkt. No. 15) is **APPROVED** and **ADOPTED in its ENTIRETY**; and it is further

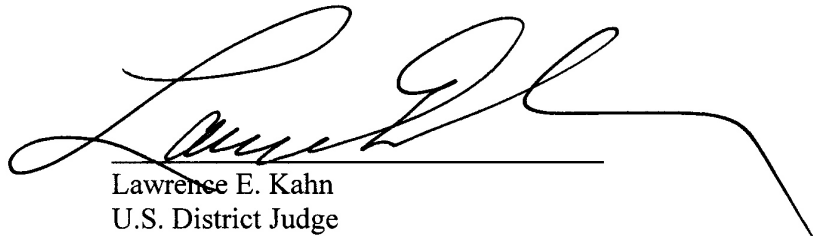
ORDERED, that Plaintiff's Motion for judgment on the pleadings is **GRANTED**; and it is further

ORDERED, that the Commissioner's decision of no disability is **VACATED**, and this matter is **REMANDED** for further proceedings consistent with Judge Peebles' Report and Recommendation; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 28, 2006
Albany, New York



Lawrence E. Kahn
U.S. District Judge